



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

██████████
Docket No. 9955-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Because your application was submitted with new evidence not previously considered, the Board found it in the interest of justice to review your application. Your current request has been carefully examined by a three-member panel of the Board, sitting in executive session on 12 March 2025. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo), the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). The Board also considered the advisory opinion (AO) furnished by a qualified mental health professional and your response to the AO.

You previously applied to this Board for an upgrade to your characterization of service and were denied relief on 22 May 1984, 7 April 2015, and 1 March 2023. You also were denied for reconsideration on 1 September 1999 and 3 October 2012 due to lack of new evidence. The summary of your service remains substantially unchanged from that addressed in the Board's previous decisions.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta, Hagel, and Wilkie

Memos. These included, but was not limited, your request to upgrade your characterization of service and contentions that your current discharge does not accurately reflect your service and conduct while in the Marine Corps and the unfair and unfounded derogatory statement that are in your record from your discharge process contributed to your current status. For purposes of clemency and equity consideration, the Board noted you provided documents from your official military record, including your medical and dental record, but no supporting documentation describing post-service accomplishments or advocacy letters.

As part of the Board review process, the BCNR Physician Advisor who is a licensed clinical psychologist (Ph.D.), reviewed your contentions and the available records, and issued an AO dated 11 February 2025. The Ph.D. stated in pertinent part:

There is no evidence that he was diagnosed with a mental health condition in military service, or that he exhibited any psychological symptoms or behavioral changes indicative of a diagnosable mental health condition. During his disciplinary processing, he was evaluated and denied mental health symptoms. Temporally remote to his military service, he has received a diagnosis of PTSD from a civilian provider. Unfortunately, there is insufficient information regarding his purported combat exposure to validate this diagnosis. Additionally, inconsistencies in the Petitioner's statements raise doubt regarding his candor. It is difficult to attribute his misconduct to a mental health condition when the Petitioner denies engaging in the behavior.

The Ph.D. concluded, "it is my clinical opinion that there is post-service evidence from a civilian provider of a diagnosis of PTSD that may be attributed to military service. There is insufficient evidence to attribute his misconduct to PTSD, or another mental health condition."

In response to the AO, you submitted additional evidence in support of your application. After reviewing your rebuttal evidence, the AO remained unchanged.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your six non-judicial punishments and a special court-martial, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found your conduct showed a complete disregard for military authority and regulations. The Board also noted that your misconduct included a drug offense. The Board determined that illegal drug possession by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Additionally, the Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your Bad Conduct Discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Further, the Board concurred with the AO and determined there is insufficient evidence to attribute your misconduct to PTSD or another mental health condition. As explained in the AO, during your disciplinary processing, you were evaluated and denied mental health symptoms. Additionally, the Board agreed that inconsistencies in your statements raise doubt regarding your

candor. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions. Based on your extensive record of misconduct, the Board was not persuaded by your contention that your BCD does not accurately reflect your service or that your discharge was not based on evidence of your misconduct.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

3/26/2025

